IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

OP.No. 20467 of 2002(J)
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PETITIONER:
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SUBASH CHANDRA BOSE, ENGINEER,
MUKUNDAPURAM TALUK LABOUR CONTRACT
CO-OPERATIVE SOCIETY LTD.NO.R.824
MUNICIPAL BUILDING, TANA, IRINJALAKUDA-780 121.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:
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1. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, THRISSUR.

2. ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL) MUKUNDAPURA, IRINJALAKUDA.

3. MUKUNDAPURAM TALUK LABOUR CONTRACT CO-OPERATIVE SOCIETY LTD.NO.R.824, MUNICIPAL BUILDING TANA, IRINJALAKUDA, REPRESENTED BY ITS SECRETARY.

R3 BY ADV. SRI.C.E.UNNIKRISHNAN
SRI.K.S.RAVISANKAR
R1&2 BY GOVT.PLEADER SMT.A.G.ANEETHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12/03/2007, THE COURT ON 12/03/2007 DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.35067/2002 IN O.P. NO.20467/2002

DISMISSED:

12.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF ORDER DT.12.6.95 ISSUED BY R1.

P2: TRUE COPY OF ORDER DT.29.12.95 ISSUED BY R1.

P3: TRUE COPY OF RESOLUTION DT.8.2.99 PASSED BY MANAGING COMMITTEE OF R3.

P4: TRUE COPY OF RESOLUTION DT.10.12.00 OF R3.

P5: TRUE COPY OF LETTER DT.4.7.02 FROM R2 TO R3.

P6: TRUE COPY OF LETTER DT.11.7.02 FROM R3 TO THE PETITIONER.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.20467 of 2002

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Dated this the 12th day of March, 2007.

JUDGMENT

The petitioner was appointed as Engineer to the third respondent-society which is a labour society, on monthly wages of Rs.1,000/- in the year 1994. Later the petitioner's pay was increased to Rs.2,000/- in 1999. On petitioner's request he was given the wages equal to Assistant Engineer of PWD from December 2000 onwards. However, the two orders increasing petitioner's wages were not approved by the Joint Registrar. Consequently the society was directed to recover the excess payment vide Ext.P5 order dated 4.7.2002. This order and the consequential order issued by the society namely, Ext.P6 are under challenge. The O.P. is filed in 2002 and this court granted stay against implementation of Exts.P5 and P6. The petitioner is continuing as Engineer to the third respondent-society in the same pay scale as Assistant Engineer of PWD. It is not known whether the society has sufficient operations to justify the appointment of a qualified engineer. If it has turnover and profits to justify petitioner's retention as an Engineer, then I see no reason why his appointment should not be regularised. In the circumstances, O.P. is disposed of directing the first respondent to call for

the Balance Sheet and Profit and Loss Account of the third respondent-society for the last three years and see whether the society is viable in it's operations and if service of an Engineer is required on regular basis which will be reflected in the volume of operations of the society, he will regularise the appointment of the petitioner with retrospective effect. However, if there is no justification to regularise petitioner on a regular basis, then the first respondent will order his termination or continuation at contract rates only prospectively, but approve the wages paid to the petitioner until date of order.

C.N.RAMACHANDRAN NAIR
Judge

pms